

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA
3 - - - - - x

4 MANSI REDDY BUSHIREDDY,
5 v.

Plaintiff,

CA No: 1:25-cv-01102-SLS

Washington, D.C.
Monday, May 5, 2025
10:04 a.m.

6 TODD M. LYONS,

7 Defendant.
8 - - - - - x

9 TRANSCRIPT OF EVIDENTIARY HEARING
10 HELD BEFORE THE HONORABLE SPARKLE L. SOOKNANAN
11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

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1 P R O C E E D I N G S

2 THE COURTROOM DEPUTY: This is Civil Matter
3 25-1102, *Mansi Reddy Bushireddy v. Todd M. Lyons.*

4 Starting with plaintiff's counsel, please identify
5 yourself for the record.

6 MR. BANIAS: Good morning, Your Honor, may it
7 please the Court; Brad Banias and Steven Brown for the
8 plaintiffs.

9 THE COURT: Good morning, Counsel.

10 MS. GRAHAM-OLIVER: Good morning, Your Honor, may
11 it please the Court; Heather Graham-Oliver on behalf of the
12 government.

13 THE COURT: Good morning, Counsel.

14 All right. We're going to start with the
15 government. I hope everyone had a good weekend. I have
16 read all of the many filings. Thank you for getting them
17 done on short timelines.

18 So I've got a bunch of questions for you, Ms. --
19 is it Ms. Graham-Oliver? Is that right?

20 MS. GRAHAM-OLIVER: Yes, Your Honor.

21 THE COURT: Or is it just Oliver?

22 MS. GRAHAM-OLIVER: That's fine.

23 THE COURT: Okay. Great.

24 So I want to just zoom out from this case and talk
25 about this mass termination program. I have been calling it

1 a mass termination program. Now I see from the
2 administrative record that the government calls it the
3 Student Criminal Alien Initiative, so I just want to zoom
4 out and talk about that before we talk about the facts of
5 this case.

6 So tell me about this Student Criminal Alien
7 Initiative. How did it come about?

8 MS. GRAHAM-OLIVER: Your Honor, I do not know how
9 it came about. It's not a program per se, but it's a name
10 that was given by ICE National Security Division staff to
11 this specific effort to scrub records from SEVIS through
12 NCIC to determine if there were any positive hits within
13 NCIC.

14 THE COURT: So, Counsel, do you have your
15 declarant here to tell me about this if you don't know the
16 answer to how this program came about? Does the government
17 have witnesses here to answer my questions about the
18 program?

19 MS. GRAHAM-OLIVER: Your Honor, we do not have a
20 declarant here. I can call the agency. I do not have a
21 declarant here, no, Your Honor.

22 THE COURT: Counsel, I know you were not before me
23 last week, but I assume Mr. Carilli briefed you and you
24 reviewed the transcript from the last proceeding about the
25 questions that I had and my request that you show up here

1 today prepared to answer them or bring someone who could
2 answer the questions. Did you review that?

3 MS. GRAHAM-OLIVER: Yes, Your Honor, I did. Yes.

4 THE COURT: And yet you're showing up here telling
5 me you don't know the answers to the questions, and your
6 declarant is not here.

7 MS. GRAHAM-OLIVER: Your Honor, I don't know how
8 it came about; however, it's a name that was given by ICE
9 National Security Division staff. And what happened is
10 that they said that they scrubbed the records from SEVIS
11 through --

12 THE COURT: Counsel, we have another hearing at
13 11:30. I'm going to give you a minute to talk to who you
14 need to talk to, and I would like you to have people here
15 who can answer the questions that I asked two weeks ago of
16 the government. And then you can come back to the podium.

17 MS. GRAHAM-OLIVER: Yes, Your Honor.

18 Are there any --

19 THE COURT: And I will continue questioning you,
20 but I want to make sure that someone can show up here at my
21 next hearing to answer those questions.

22 MS. GRAHAM-OLIVER: I'm going to have to go out
23 and make a phone call.

24 THE COURT: Sure.

25 (Pause)

1 MS. GRAHAM-OLIVER: Your Honor, we have contacted
2 the civil chief, and he is now contacting the division, the
3 agency, to get someone to at least appear virtually in this
4 hearing.

5 THE COURT: Okay. Thank you, Counsel.

6 Okay. So is it right, then, that you can't answer
7 any of my questions about this Student Criminal Alien
8 Initiative, and I should wait for agency counsel to answer
9 those questions?

10 MS. GRAHAM-OLIVER: The only answer that I have
11 for you I have specifically stated, so any other information
12 would have to come from the agency.

13 THE COURT: Okay. And they're going to show up at
14 this hearing virtually?

15 MS. GRAHAM-OLIVER: Yes, Your Honor.

16 THE COURT: Okay, thank you. And you've shared
17 the Zoom link?

18 I see lots of lawyers here. I assume one of them
19 can do it while we continue with this hearing.

20 THE COURTROOM DEPUTY: Your Honor, there is
21 someone in the waiting room, James Obute.

22 THE COURT: No, that's for our next hearing.

23 MR. TRUONG: If I may, Your Honor, if Madam Deputy
24 Clerk can email it to me, I can then email it to the
25 witness.

1 THE COURT: Okay. Thank you.

2 Okay. So let's go back to this specific case,
3 then, Ms. Graham-Oliver.

4 So based on your filings, this plaintiff's SEVIS
5 record was reinstated on April 21st in response to the TRO
6 that I entered on that date; is that right?

7 MS. GRAHAM-OLIVER: Yes, Your Honor. It was
8 reactivated on April 25th. That's what I have.

9 THE COURT: On April 25th.

10 MS. GRAHAM-OLIVER: That's what I have, yes.

11 THE COURT: Okay. Let me look at your filing
12 because...

13 (Pause)

14 MS. GRAHAM-OLIVER: ECF No. -- let's see -- 22.

15 THE COURT: Okay. So ECF-22 says that the
16 student's SEVIS record was reactivated on April 21, 2025.
17 Is that not right? Is it the 21st or the 25th?

18 MS. GRAHAM-OLIVER: It's the 21st, Your Honor.

19 THE COURT: Okay.

20 MS. GRAHAM-OLIVER: Sorry. I have it in my notes
21 incorrectly.

22 THE COURT: Okay. And when was the record
23 actually terminated, according to you?

24 MS. GRAHAM-OLIVER: So in plaintiff's exhibits, it
25 appears that the record was terminated on or about April the

1 3rd, 2025.

2 THE COURT: Okay. And you've represented in your
3 filing that even absent my TRO you would have reinstated
4 this plaintiff's status on SEVIS as part of the mass
5 correction effort that you guys undertook.

6 MS. GRAHAM-OLIVER: Yes, Your Honor.

7 THE COURT: Okay. So there's a gap in the SEVIS
8 status because you've terminated I think on April 4th, you
9 think on April 3rd, but either way, between April 3rd or 4th
10 and April 21st. Does the gap in SEVIS have any implications
11 for the plaintiff?

12 MS. GRAHAM-OLIVER: Your Honor, there should not
13 be a gap in this situation. There's no gap created by the
14 termination of the SEVIS record once it is reactivated.
15 Once the record is restored, it is set back to the same
16 place it was when the record was originally terminated.

17 THE COURT: So you retroactively reinstated the
18 plaintiff's SEVIS record to active going back to April 4th?

19 MS. GRAHAM-OLIVER: Yes, Your Honor.

20 THE COURT: Okay.

21 So do you have knowledge that this plaintiff's
22 arrest that happened on April 13, 2023, and the resulting
23 charge, that was dismissed on August 11, 2023; is that
24 right?

25 MS. GRAHAM-OLIVER: Yes, Your Honor.

1 THE COURT: Okay. And so being arrested and then
2 having that charge dismissed is not a violation of someone's
3 F-1 status, correct?

4 MS. GRAHAM-OLIVER: Is not a violation of
5 someone's F-1 status?

6 THE COURT: If a student gets arrested --

7 MS. GRAHAM-OLIVER: Uh-huh.

8 THE COURT: -- and then those charges are
9 dismissed, that student is not committing some violation
10 that would change their F-1 status, correct?

11 MS. GRAHAM-OLIVER: Your Honor, it may not be a
12 violation of the student's F-1 status. It is information
13 that was entered into the SEVIS.

14 THE COURT: Okay. You say me, not thee. Are you
15 saying it's possible that, when a student gets arrested and
16 then that charge is dismissed, that somehow affects the
17 validity of their F-1 status?

18 MS. GRAHAM-OLIVER: Your Honor, we are here to
19 discuss the termination of the SEVIS --

20 THE COURT: Counsel, I had this with Mr. Carilli
21 two weeks ago as well. I know why we're here, and I have
22 questions for you. And I would like you to answer those
23 questions.

24 And you might think that my questions are not
25 relevant to the question that you think I have to decide,

1 but I get to ask the questions. And so I want you to listen
2 to my question, and I want you to answer them because two
3 weeks ago Mr. Carilli could not answer any of my questions,
4 and I asked him to be sure that when he appeared before me
5 today he could answer my questions. Now, he is not here
6 because the government substituted counsel. I assume that
7 the government has conferred, and you have reviewed the
8 prior transcript and everything I have asked, and you're
9 prepared to answer my questions.

10 I asked you that when a student gets arrested and
11 those charges are dismissed, that's not some violation that
12 should change their F-1 status.

13 You said it may not. I want you to answer that
14 question for me yes or no, and if your answer is maybe, I
15 want to understand in which circumstances do you think that
16 an arrest, when the charges were dismissed, somehow changes
17 a student's F-1 status.

18 MS. GRAHAM-OLIVER: Your Honor, I can only --

19 THE COURT: So let's start with the answer. So
20 I'm going to ask you the question again, and is it yes or no
21 or maybe?

22 MS. GRAHAM-OLIVER: Maybe.

23 THE COURT: Okay. So in which circumstances does
24 someone's F-1 status change because they were arrested even
25 though those charges then got dismissed?

1 MS. GRAHAM-OLIVER: Your Honor, I can't answer
2 that question.

3 THE COURT: Why?

4 MS. GRAHAM-OLIVER: I don't know.

5 THE COURT: Okay. So once again, the government's
6 showing up here two weeks later and you cannot answer the
7 questions because you don't know the answer to the question.

8 MS. GRAHAM-OLIVER: I don't know the answer to
9 that question, Your Honor.

10 THE COURT: Okay.

11 MS. GRAHAM-OLIVER: I do know that --

12 THE COURT: I don't want to know what you know.
13 I'm asking you the answer to my question, Counsel.

14 The government conducted a mass termination
15 program called the Student Criminal Alien Initiative that
16 terminated thousands of students gathered across this
17 country upending the lives of thousands of students. You
18 showed up before me two weeks ago not able to answer my
19 questions. Two weeks later you still can't answer them.

20 Okay. So do you agree that this plaintiff has not
21 failed to maintain F-1 status? I've asked you some version
22 of this question.

23 MS. GRAHAM-OLIVER: Yes.

24 THE COURT: And as usual the government has
25 engaged in lots of obfuscation, but to be clear, based on

1 the record in this case, do you acknowledge that this
2 plaintiff has not failed to maintain F-1 status?

3 MS. GRAHAM-OLIVER: Yes, Your Honor. That's
4 correct.

5 THE COURT: Okay. So when I asked you a version
6 of this question, you said based on information presently
7 known to ICE and based on ICE's understanding of the posture
8 of plaintiff's interactions with the State Department, so
9 there was a lot of hedging, but I'm hearing you saying to me
10 very clearly that this plaintiff has not failed to maintain
11 F-1 status.

12 Okay. So based on the record in this case, does
13 the government believe that this plaintiff is -- will become
14 removable upon termination of my TRO?

15 MS. GRAHAM-OLIVER: I don't have the answer to
16 that question, Your Honor.

17 THE COURT: Who has the answer to these questions?
18 When did you -- when was this case transferred to you,
19 Counsel?

20 MS. GRAHAM-OLIVER: In order to be removable,
21 there has to be steps.

22 THE COURT: Mr. Truong, are you handling this
23 case?

24 MR. TRUONG: I was going to see if I can consult
25 with my counsel to respond to the Court's question.

1 THE COURT: You may have two minutes, and then
2 we're going to keep going because I have already given you
3 time to go call your witness who I asked you two weeks ago
4 to have here today. I'm going to give you two minutes to
5 consult with counsel.

6 MR. TRUONG: Thank you, Your Honor.

7 (Pause)

8 MS. GRAHAM-OLIVER: Your Honor, based on what we
9 have right now, Ms. Bushireddy is not subject to removal
10 procedures.

11 THE COURT: Okay. Thank you, Counsel.

12 Okay. So you ran some program that hit with the
13 NCIC database that this plaintiff had an interaction with
14 law enforcement because she was arrested, and those charges
15 were then dismissed. You then terminated her SEVIS record.

16 You reinstated it because you guys went back and
17 looked and decided none of these people should have been
18 terminated.

19 Does the government plan on terminating this SEVIS
20 record in the future based solely on that NCIC hit that she
21 was arrested but then those charges were dismissed?

22 MS. GRAHAM-OLIVER: Your Honor, we have a new
23 policy that was interacted --

24 THE COURT: No, I just want to know yes or no.

25 MS. GRAHAM-OLIVER: -- with respect to this

1 particular individual --

2 THE COURT: I want to know yes or no with respect
3 to this individual.

4 You previously terminated her, according to your
5 declarant, because she was arrested and those charges were
6 dismissed.

7 You reinstated her because of my TRO, but you said
8 you would have reinstated her anyway because you shouldn't
9 have terminated her. So I am asking you do you plan to
10 terminate her based on that same arrest, yes or no?

11 MS. GRAHAM-OLIVER: Absent any new information --

12 THE COURT: Yes, absent new information. I'm
13 talking about that original -- that arrest that happened in
14 April 2023. Because I have counsel here saying there's
15 irreparable harm. You guys may walk out this door and
16 terminate her again.

17 I'm asking you, do you plan to terminate her based
18 solely on that April 2023 arrest?

19 MS. GRAHAM-OLIVER: Your Honor, we do not plan on
20 terminating her based upon the same information again.

21 THE COURT: Okay. So I've looked at this new
22 policy. My first question is, is this a final policy?
23 Because I understand based on some filings in my cases that
24 the government was representing in a different case that the
25 policy was, in fact, not final.

1 MS. GRAHAM-OLIVER: As far as I know, Your Honor,
2 it is a final policy, yes.

3 THE COURT: Okay. So this new policy seems to
4 give ICE pretty broad discretion to modify SEVIS records,
5 and looking at it I see that it has a nonexhaustive list of
6 reasons for SEVIS termination. It also says that the SEVP
7 has the inherent authority to maintain and update the
8 information in SEVIS and, as such, to terminate SEVIS
9 records as needed to carry out the purposes of the program.

10 What's the purpose of terminating a SEVIS record
11 based solely on, you know, a finding that someone was
12 arrested and then those charges were dismissed?

13 MS. GRAHAM-OLIVER: Your Honor, the entire thing
14 is it's a flag in the record. It's a flag that goes to the
15 school. Information is provided through SEVIS to the
16 school. That's all it is.

17 THE COURT: And, Counsel, do you -- I assume you
18 know by now that the flags, the thousands of flags, led to
19 thousands of students across this country being kicked out
20 of school and having their OPT training terminated. I
21 assume you know that --

22 MS. GRAHAM-OLIVER: No, Your Honor.

23 THE COURT: -- yes?

24 MS. GRAHAM-OLIVER: I do not know that. In this
25 case --

1 THE COURT: How many cases are you handling?

2 MS. GRAHAM-OLIVER: This one.

3 THE COURT: This is your one case.

4 So in this case, this flag led to this -- led to
5 consequences for this plaintiff. Isn't that true?

6 MS. GRAHAM-OLIVER: There's some indication in the
7 record that Ms. Bushireddy would not be able to continue her
8 OPT training. However --

9 THE COURT: When you say there's some indication.
10 Are you disputing that?

11 MS. GRAHAM-OLIVER: Yes, Your Honor.

12 THE COURT: Are you disputing that she was
13 affected by this flag?

14 MS. GRAHAM-OLIVER: Yes, Your Honor.

15 THE COURT: What's your version of it? Because
16 I'll tell you, Mr. Carilli didn't two weeks ago, so I'm
17 trying to understand the government -- the basis for your
18 change in position here.

19 MS. GRAHAM-OLIVER: So any termination of an
20 employment basis or OPT would have to come through USCIS.
21 That has not been done in this case.

22 THE COURT: Counsel --

23 MS. GRAHAM-OLIVER: She has not been given any --
24 as far as I know --

25 THE COURT: I find the government's position in

1 these cases unacceptable and shocking. I can't believe that
2 that's your answer. Let's move on.

3 So the new policy says that SEVP can terminate
4 SEVIS records for several normal administrative reasons.
5 What's an example of an administrative reason for
6 terminating a SEVIS record?

7 MS. GRAHAM-OLIVER: It would be transfer; for
8 example, if the student transfers to another school, that
9 would be one example.

10 THE COURT: Wouldn't that be something the school
11 would update and not ICE? I'm asking -- give me an example
12 of an administrative reason that ICE would terminate a SEVIS
13 record.

14 MS. GRAHAM-OLIVER: It could be that the -- for
15 example, her visa, if it were a -- not a prudential
16 termination, but an immediate termination, that could be --

17 THE COURT: What's the difference between a
18 prudential and an immediate termination?

19 MS. GRAHAM-OLIVER: A prudential termination of a
20 visa would be travel -- termination of a travel visa; that
21 is, if a student left the United States, they would have to
22 go to a consulate to get a visa to return to the United
23 States. But they are legitimately in the United States. It
24 would just be that they would have to get a visa coming back
25 into the country.

1 An immediate termination would -- of a visa would
2 throw that student immediately into deportation proceedings.

3 THE COURT: So if a student's visa is revoked,
4 either prudentially or immediately, then that would lead --
5 that's what you're calling an administrative reason for
6 terminating a SEVIS record?

7 MS. GRAHAM-OLIVER: It could be. It could be,
8 Your Honor, yes.

9 THE COURT: Okay. I asked Mr. Carilli this three
10 times two weeks ago because I'm still like pretty floored by
11 your narrative that a change in SEVIS is just a flag. It
12 does nothing. It has no impact whatsoever on a student's
13 nonimmigrant status here in the United States.

14 I asked him then, what is the consequence of
15 terminating someone's record in SEVIS, if it is, in fact,
16 not to modify their status? So tell me, what is the purpose
17 of terminating a SEVIS record or flagging it, as you call
18 it, if not to modify their nonimmigrant status?

19 Because, again, despite the fact that you don't
20 know it, I have several cases before me, and my colleagues
21 have even more. Students across this country have had their
22 OPT trainings cancelled. They've been kicked out of school.
23 They've been told that they're no longer in a valid,
24 nonimmigrant status. They have been fearing their
25 deportation because the government terminated all these

1 SEVIS records.

2 So what is the purpose of making the change that
3 you did? The government went off spending hours and hours
4 and hours terminating all these records for no reason
5 whatsoever. What is the purpose of the SEVIS termination?

6 MS. GRAHAM-OLIVER: Your Honor, it could be simply
7 to maybe follow up, do some investigation as far as what is
8 occurring, what the information is.

9 THE COURT: I find that completely not credible,
10 Counsel. We're going to move on.

11 So you're telling me there are no like automatic
12 implications. It's just a flag to follow up.

13 The government's own website says very clearly
14 that terminating a SEVIS record causes the following:
15 Student loses all on and/or off campus employment
16 authorization. What do you have to say about that? That's
17 false?

18 MS. GRAHAM-OLIVER: Your Honor, that is not
19 legally defensible, yes.

20 THE COURT: So your government website is wrong?
21 Yes or no?

22 Don't shake your head. Answer for the record.

23 MS. GRAHAM-OLIVER: Yes. Yes, Your Honor.

24 THE COURT: So are you planning to remove that
25 from your website? Because you've known about it for weeks

1 because plaintiff's have been citing this in my cases since
2 they filed this complaint. Why have you taken no action to
3 take that down?

4 MS. GRAHAM-OLIVER: I don't have the authority to
5 do that, Your Honor.

6 THE COURT: Have you talked to the agency about
7 the statement and asked them why it's false?

8 MS. GRAHAM-OLIVER: I have not, Your Honor.
9 they --

10 THE COURT: Have you looked at the statement?
11 Were you aware of the statement?

12 MS. GRAHAM-OLIVER: I was aware of the statement,
13 and they have indicated that it's not legally correct.

14 THE COURT: What do you mean legal -- what's the
15 distinction between correct and legally correct? Is it
16 correct or not?

17 MS. GRAHAM-OLIVER: It would have to go through
18 US --

19 THE COURT: Is it correct?

20 MS. GRAHAM-OLIVER: It could be, Your Honor.

21 THE COURT: You just told me it was not correct.

22 MS. GRAHAM-OLIVER: It could be if, in fact, the
23 UCIS made a determination that, in fact, the individual
24 could no longer be employed in the United States, but there
25 has to be a determination by UCIS for that --

1 THE COURT: Counsel, the website says that
2 terminating a SEVIS record causes the following: Student
3 loses all on and/or off campus employment authorization. Is
4 that correct? Yes or no.

5 MS. GRAHAM-OLIVER: It is not entirely correct.

6 THE COURT: No, is it -- is it correct? Yes or
7 no.

8 MS. GRAHAM-OLIVER: I cannot answer yes or no to
9 that question, Your Honor. USCIS makes that determination.

10 THE COURT: Makes what determination?

11 MS. GRAHAM-OLIVER: Whether or not an individual
12 -- whether or not to terminate the individual's OPT.

13 THE COURT: Counsel, the website says that that is
14 the effect of terminating a SEVIS record. We are in a new
15 world if the government is showing up now in court telling
16 judges that a statement that's been on your own government
17 website for I don't know how long is not correct or might
18 not be correct.

19 You told me it wasn't correct. You told me it
20 wasn't legally correct. Then I asked you for the
21 distinction between legally correct and correct, and you
22 said it may be correct, but your explanation for why it may
23 be correct makes no sense to me.

24 MS. GRAHAM-OLIVER: In this case --

25 THE COURT: How long has the statement -- no, I

1 don't want -- I know you want to talk about this case. You
2 need to answer the questions I'm asking you. That's how
3 this works.

4 How long has this statement been on the website?

5 MS. GRAHAM-OLIVER: I don't know, Your Honor.

6 THE COURT: When is your agency colleague getting
7 here?

8 MR. TRUONG: Good morning, Your Honor; this is
9 John Truong. I received a note that said that the witness
10 can be available by 11:00 by -- for both hearings, this one
11 and the next one at 11:30.

12 THE COURT: Okay. We'll finish with this, and
13 we'll have that witness here at 11:00. I would like that
14 witness to tell me how long this statement has been on this
15 website and confirm his understanding that it's -- whether
16 it's correct or not correct, and then tell me why it's been
17 on the website, if it's false, and what the agency plans to
18 do about it.

19 MR. TRUONG: Your Honor -- if I may, Your Honor,
20 can I get clarification on the website? Is that from the
21 State Department website, Your Honor, or is that from
22 Homeland Security, Your Honor? I just want to make sure
23 that we have the same information because --

24 THE COURT: Counsel --

25 MS. GRAHAM-OLIVER: State Department.

1 THE COURT: -- this has been in all the filings.

2 There are four lawyers sitting here, at least two other
3 people out there, someone can figure this out.

4 MR. TRUONG: Yes, Your Honor.

5 THE COURT: Thank you.

6 All right. Counsel, so this plaintiff's visa was
7 revoked on April the 4th. Did that happen before or after
8 the SEVIS termination?

9 MS. GRAHAM-OLIVER: I'm sorry, Your Honor, please
10 repeat the question.

11 THE COURT: Sure. I will repeat the question.

12 So according to your own filing, defendants
13 understand from conferral with the Department of State that
14 Ms. Bushireddy's F-1 visa was prudentially revoked on April
15 4, 2025, pursuant to the Immigration and Nationality Act.
16 Did this happen before or after the SEVIS termination?

17 MS. GRAHAM-OLIVER: I believe it happened before
18 the SEVIS termination, Your Honor.

19 THE COURT: Why was the visa revoked?

20 MS. GRAHAM-OLIVER: Your Honor, certain -- the
21 administrative record indicates that there were certain
22 names that went to the Department of State, and those names
23 are from people who had a hit on the NCIC.

24 THE COURT: First of all, your administrative
25 record, as much as I can read, is a couple of pages long.

1 Why was this plaintiff's visa revoked?

2 MS. GRAHAM-OLIVER: Because her name came up on
3 the NCIC hit.

4 THE COURT: Her visa was revoked because she was
5 arrested even though those charges were dismissed? That's
6 why her visa was revoked? Yes or no.

7 MS. GRAHAM-OLIVER: That's my understanding.

8 THE COURT: And you think it's the government's
9 position that a valid F-1 visa revocation can result from a
10 student being arrested even though those charges have been
11 revoked? Dismissed, sorry.

12 MS. GRAHAM-OLIVER: Your Honor, I don't know what
13 the --

14 THE COURT: Well, you just told me that's why her
15 visa was revoked.

16 MS. GRAHAM-OLIVER: That's my understanding.

17 THE COURT: Was that a valid revocation or an
18 invalid revocation?

19 MS. GRAHAM-OLIVER: I don't know. It was a
20 prudential revocation.

21 THE COURT: Counsel.

22 MS. GRAHAM-OLIVER: That's all I know.

23 THE COURT: So that this plaintiff's visa is
24 currently -- it's been revoked. That has not been changed.
25 And you're telling me that happened because you ran this

1 search, and it showed that she had been arrested though
2 those charges had been dismissed. You don't know whether
3 you validly or invalidly revoked her visa based on that?

4 MS. GRAHAM-OLIVER: I do not know, but it does not
5 affect her status.

6 THE COURT: I don't care whether it affects her
7 status. It does affect something. If she doesn't have a
8 valid visa, can she reenter this country if she leaves to go
9 home for a holiday?

10 MS. GRAHAM-OLIVER: If she goes home, she can't
11 reenter without going to the consulate.

12 THE COURT: So what do you mean it has no impact?

13 MS. GRAHAM-OLIVER: On her immigrant status.

14 THE COURT: This student -- so she must stay here
15 forever while she's doing her studies. She cannot go home,
16 which she would be able to do had you not revoked her visa
17 for what seems to me to be a totally invalid reason.

18 Absent a visa revocation, couldn't she go home to
19 see her family for the holidays and come back?

20 MS. GRAHAM-OLIVER: Your Honor, we're not
21 preventing her from going home.

22 THE COURT: Counsel -- oh, you're not preventing
23 her from going home. You're just telling her she can't come
24 back because you took her visa away for an invalid reason?

25 MS. GRAHAM-OLIVER: We're not telling her that she

1 can't come back either.

2 THE COURT: Counsel --

3 MS. GRAHAM-OLIVER: She has to get another visa.

4 THE COURT: Counsel, that is making her take
5 another step because you did an invalid revocation. Is that
6 not right?

7 MS. GRAHAM-OLIVER: I don't believe that's
8 correct, Your Honor.

9 THE COURT: How is it not correct? Let's walk
10 through this in steps.

11 You revoked her visa because your database showed
12 that she had been arrested even though the charges had
13 actually been dismissed. Was that a valid reason to revoke
14 her visa? Because we've established it seems to not have
15 been a valid reason to terminate her SEVIS record.

16 MS. GRAHAM-OLIVER: It does not affect her. All I
17 can say, Your Honor --

18 THE COURT: I am not asking -- you're not
19 answering my questions.

20 MS. GRAHAM-OLIVER: -- status.

21 THE COURT: One, you cannot speak over me. If I
22 start to speak, I'm going to ask you to stop speaking so the
23 court reporter can get this on the record.

24 MS. GRAHAM-OLIVER: Excuse me, Your Honor.

25 THE COURT: So we'll start again.

1 You told me that this plaintiff's visa was revoked
2 because of the hit showing that she was arrested even though
3 those charges were dismissed.

4 You revoked her visa because of it, and you
5 terminated her SEVIS record. You've now reactivated her
6 SEVIS record acknowledging to me that you would have done
7 that even without a TRO because you shouldn't have done it
8 to begin with.

9 You have not done anything to fix the visa
10 revocation, which does have an impact on this plaintiff
11 because if she leaves the country she cannot reenter without
12 another visa. And you're here on behalf of the United
13 States telling me that's okay because we're not telling her
14 she can't leave the country, and we're not telling her she
15 can't come back. She can go get another visa because we
16 decided to terminate thousands of students incorrectly.

17 MS. GRAHAM-OLIVER: Your Honor --

18 THE COURT: You can sit down, Counsel.

19 All right. Who is arguing for plaintiff today?

20 MR. BANIAS: Your Honor, Brad Banias for the
21 plaintiff.

22 THE COURT: Okay. Can you tell me what your
23 understanding is of Ms. Bushireddy's visa revocation in this
24 case.

25 MR. BANIAS: Your Honor, it's our understanding

1 that her SEVIS was terminated on April 3rd. The following
2 day the State Department revoked her visa, on April 4th.

3 THE COURT: I see. So -- sorry, let me just get
4 that right. So you -- the SEVIS record, you think, was
5 terminated first on the 3rd, and then the visa revocation
6 happened on the 4th, according to Ms. Graham-Oliver, for the
7 same reason the SEVIS record was terminated because they
8 found that she had been arrested even though those charges
9 had been dismissed.

10 MR. BANIAS: Yes, Your Honor, and it appears from
11 the record they submitted that ICE and State Department were
12 working hand in hand. And so I don't know where the State
13 Department was located who was doing the revocations at the
14 behest of DHS, and so maybe they were on the same day, just
15 time zone differences, Your Honor.

16 But it's our position that, as you noted, if
17 Ms. Bushireddy leaves the country, she has to get a new
18 visa, and that means there's wait times. And those wait
19 times have increased exponentially in the last three months
20 because of staffing issues, and so it's not a situation
21 where she can leave and get a stamping in two weeks anymore.

22 We also have serious concerns that whether she'll
23 have a fair chance of getting a visa because of the Doctrine
24 of Consular Nonreviewability. If she goes and applies for a
25 visa, no court can review that. And so they can say --

1 sorry, Your Honor.

2 THE COURT: No, go ahead.

3 MR. BANIAS: Well, I was going to say, we -- you
4 know, these are agencies working hand in hand. We have no
5 reason to think they will give her an honest shot, and with
6 the Doctrine of Consular Nonreviewability there's literally
7 no opportunity for us to get that reviewed.

8 THE COURT: Yes, this is a giant mess.

9 You haven't challenged the visa revocation itself,
10 have you, Counsel?

11 MR. BANIAS: No, Your Honor, we have not.

12 THE COURT: Why?

13 MR. BANIAS: There's established case law that
14 says this Court does not have jurisdiction to review it.

15 THE COURT: I see. So the government gets to
16 revoke visas for totally invalid reasons, according to the
17 lawyer here, and there's nothing we can do about it. So as
18 it stands, even if we have the government's assurance that
19 the SEVIS record will not be terminated, your client
20 basically can't leave the country because she will have no
21 assurance she can return.

22 MR. BANIAS: That's correct, Your Honor. It's --

23 THE COURT: Wow.

24 MR. BANIAS: It's not worth the risk for her.

25 THE COURT: Wow. And that's what the United

1 States is going to stand up in my courtroom and defend.

2 Counsel, I have one more question for you. Your
3 notice of supplemental authority seems to say that the SEVIS
4 -- this new SEVIS policy is not final. The government, at
5 least today, is telling me that their position is that it is
6 final. So, one, why does it help your client for the new
7 SEVIS policy to not be final?

8 MR. BANIAS: Your Honor, we are just hearing
9 different things in different courts, and that's why we
10 pointed it out. But we think final or not, this policy --
11 it's just a description of why it's unlawful. ICE is trying
12 to use this opportunity to expand its powers to terminate,
13 not limit them. And I would just note, in our -- you know,
14 our main merits argument here, that the government does not
15 claim its decision was not arbitrary and capricious, the
16 justiciability argument, which is fine.

17 THE COURT: I think they'd have a hard time with
18 that argument, Counsel.

19 MR. BANIAS: Your Honor, I'll just note that, you
20 know, our argument is that to terminate an F-1, you have to
21 do it in compliance with the regulations. And every bit of
22 this policy is extra regulatory, and they don't comply with
23 the limited grounds that are in the regulation that allows
24 them to do this, so we would suggest on its face this is
25 unlawful.

1 Their attempt to moor it to the statute that
2 created SEVIS is particularly unpersuasive because, if you
3 actually look at that statute, it does give ICE the ability
4 to terminate and revoke status, but only where a school
5 completely stops participating in SEVP. And so it's ICE
6 regulating the schools, not the individual students.

7 And as Your Honor implied earlier, ICE, up until
8 this last month, has had no real active role in managing
9 SEVIS. It's always been the schools that kind of deputize
10 these officers -- school employees to manage the system, and
11 under the current administration they've decided to take a
12 much more active role, and we would suggest this policy is
13 unlawful for the same reasons that the original termination
14 was unlawful, Your Honor.

15 THE COURT: Well, the policy sort of post-dated
16 your complaint.

17 Here's where we are, and I -- I'm going to recess
18 in a bit and wait for the government to have their agency
19 representative show up so that I can get answers to the
20 questions I have about this overarching Student Criminal
21 Alien Initiative.

22 But where we are now is you have a motion for a
23 preliminary injunction. The government has reactivated your
24 client on SEVIS; has represented to me that it's retroactive
25 back to the date so there's no gap in her SEVIS termination;

1 has represented to me that it will not terminate her on
2 SEVIS based on the same arrest incident. And so in light of
3 that, I'm having a hard time figuring out what irreparable
4 harm exists for a PI.

5 My inclination is to get an expedited briefing
6 schedule in place to brief this case on the merits; give you
7 a chance to amend, if you would like to amend, based on the
8 new policy, but get a schedule in place to brief this case
9 on the merits so I can decide it as quickly as possible.

10 Tell me why that's not right. Why do I need to
11 enter a PI given the government's representations, which I'm
12 still in a place where I'm going to believe the government's
13 representations on the record here? And so assuming those
14 representations are correct and hold true, like why is that
15 not the proper course?

16 MR. BANIAS: Yes, Your Honor. In San Francisco
17 the government, ICE, testified that they did not have the
18 technological ability to make this retroactive, and so the
19 idea that there's going to be a gap seems to be something we
20 have to deal with. That would mean --

21 THE COURT: Hang on. Let's just pause because
22 this attorney just told me that the reinstatement was
23 retroactive. Is that not what you heard, or was I
24 misinterpreting?

25 MR. BANIAS: I heard something different from

1 counsel in this Court than I did in San Francisco, Your
2 Honor.

3 THE COURT: Okay. Well, as I said, I am still
4 going to assume, though, when the government stands up here
5 and tells me something, that it's correct, and if I deny
6 your PI, it will be based on those representations. And if
7 that turns out to be incorrect, we're going to have other
8 issues.

9 But assuming that counsel made accurate
10 representations today and I were to assume that they are
11 correct, right -- that there is no gap and that they are
12 promising not to terminate again based on the same arrest --
13 do you agree that that's enough to move forward to merits
14 here, and that you can't show irreparable harm?

15 MR. BANIAS: So two points, Your Honor.

16 The two courts have addressed this issue head on.
17 One in New Hampshire. One in Atlanta. They've both said
18 this new policy being broader continues irreparable harm
19 because now this expansive visa revocation basis, which does
20 not distinguish between, quote, prudential and other types
21 of visa revocations, sure seems to put her right in the
22 cross hairs. That would be a basis they can terminate not
23 related to her prior encounters with the law, and so both of
24 those courts have said that's sufficient continuing
25 irreparable harm to enter the preliminary injunction.

1 The second thing I would --

2 THE COURT: Let's take them one at a time,
3 Counsel.

4 So if that, in fact, happens, the government
5 stands up before me today and says we're not going to
6 terminate -- we have no intention of terminating this
7 plaintiff's SEVIS record based on our prior incorrect
8 termination that was based on her arrest where charges were
9 ultimately dismissed, and then they walk out this door and
10 they go terminate her saying, well, we've got broad
11 discretion to do whatever we want, and we revoked her visa
12 based on the same incorrect reason, and so now we're going
13 to just terminate her again, that would be -- that -- I've
14 got to tell you, that would -- and we have seen a lot of
15 things that have shocked us in the past couple of months.
16 That would really shock me.

17 But I assume you can come back before me again and
18 move for emergency relief at that point based on this new
19 termination, right?

20 MR. BANIAS: Yes, Your Honor.

21 THE COURT: Okay. All right. So tell me your
22 second -- sorry. Go ahead.

23 MR. BANIAS: Yes. I'm sorry, Your Honor.

24 Is that, you know, this Court does have authority
25 under Rule 65 to convert this into summary judgment. The

1 agency has produced the, quote-unquote, record, so
2 everything's in front of this Court that it needs to issue a
3 summary judgment decision right now. And we urge the Court
4 to do that to put an end to this because the longer it
5 progresses, the more facts change, and I feel like with this
6 new policy, if this Court invalidates or says we win at
7 summary judgment because the -- there's no basis to
8 terminate outside the regulations, that would clearly have
9 implications for this new policy.

10 And so we would urge the Court to go ahead and
11 issue summary judgment. It has everything it needs before
12 it to do so.

13 THE COURT: So you would ask me to decide this
14 case on the merits based on your original complaint
15 challenging the termination, and you do not want to address
16 the lawfulness or unlawfulness of this new policy at all.
17 You just want me to decide what you originally asked me to
18 decide.

19 MR. BANIAS: Your Honor, in our renewed motion for
20 preliminary injunction, we did address the whole voluntary
21 cessation issue, which I understand is slightly different,
22 but, to your point, Your Honor.

23 THE COURT: That is different. I'm saying putting
24 aside -- I'm talking about the merits of this case.
25 Obviously the government came out with a new policy after

1 you filed your complaint.

2 You're saying you would want me to decide the
3 merits of your case, which challenges the original
4 termination and not this new policy, and that's all you want
5 me to decide?

6 MR. BANIAS: Your Honor, we think that a decision
7 noting the unlawfulness of the original termination will
8 carry with it the necessary implications that the new policy
9 is also unlawful.

10 THE COURT: Okay. So -- and you don't want to
11 submit anything else on the merits. You think you've put in
12 everything you want to put in, and I should -- so what I was
13 going -- you know, we're going to hear from the witness.
14 I'm going to go back and think about this a little more, but
15 assume I'm not entering a PI, I was going to ask you guys to
16 confer and figure out a way to brief this very quickly so I
17 can decide it on the merits.

18 But you're saying you don't even need to do that.
19 You've submitted everything you want to submit, and I should
20 just treat this PI briefing as a summary judgment briefing.

21 MR. BANIAS: Your Honor, we -- with a witness
22 coming up and answering more questions, Your Honor, I would
23 be happy to do, you know, a very quick turn around on an
24 actual summary judgment motion, I just want to point out,
25 this Court has -- you know, the bare minimum, we've given

1 you what you need to make a decision on the merits. But
2 with not knowing what their new witness is going to say here
3 in ten minutes, I defer to the Court, Your Honor.

4 THE COURT: Okay. So we're going to -- we're
5 going to recess for five minutes and come back and hear from
6 the government's witness, and then I will let you know where
7 I am on the preliminary injunction and next steps.

8 MR. BANIAS: Thank you, Your Honor.

9 THE COURT: Thank you, Counsel.

10 (Recess taken)

11 MS. GRAHAM-OLIVER: Your Honor, if I may?

12 THE COURT: Yes, Counsel.

13 MS. GRAHAM-OLIVER: We have identified two
14 individuals, Mr. Hicks, who will be testifying about how
15 long the State Department website regarding --

16 THE COURT: Can you speak up, Counsel. I can't
17 hear you.

18 MS. GRAHAM-OLIVER: Sorry. Mr. Hicks, who will be
19 testifying regarding the State Department website --

20 THE COURT: Okay.

21 MS. GRAHAM-OLIVER: -- and how long that has been
22 up.

23 THE COURT: Okay.

24 MS. GRAHAM-OLIVER: And Mr. Hammer, who will be --

25 THE COURT: Mr. Who? Can you spell that.

1 MS. GRAHAM-OLIVER: H-A-M-M-E-R.

2 THE COURT: Okay.

3 MS. GRAHAM-OLIVER: -- who will be testifying
4 about the Student Criminal Alien Initiative. So --

5 THE COURT: Okay. And tell me their titles,
6 please, Counsel.

7 You don't know? I can ask them.

8 MS. GRAHAM-OLIVER: Thank you, Your Honor.

9 THE COURT: Okay. Are they in the waiting room?

10 THE COURTROOM DEPUTY: They are not at this time,
11 Your Honor.

12 MS. GRAHAM-OLIVER: They are not in the waiting
13 room as yet.

14 THE COURT: Okay. I thought they were going to be
15 available at 11:00, Counsel.

16 MS. GRAHAM-OLIVER: Yes, we thought so as well.

17 THE COURT: Where is the rest of your group?

18 MS. GRAHAM-OLIVER: Outside making sure that they
19 are actually -- what time they will be here. They were told
20 to be here at 11:00. My apologies, Your Honor.

21 THE COURT: Okay. Can you please go find out what
22 time they're going to be here, because at this point --

23 MS. GRAHAM-OLIVER: Yes.

24 THE COURT: There's Mr. Truong. Maybe he has the
25 answer.

1 THE COURTROOM DEPUTY: Your Honor, it appears
2 someone just logged into the Zoom. They're joining now.

3 Hello, Mr. Hicks, can you hear me? This is Nani,
4 the courtroom deputy.

5 (Pause)

6 THE COURTROOM DEPUTY: Mr. Hicks, can you hear me?

7 MR. HICKS: I can hear you. Yes, Your Honor.

8 THE COURT: Good morning, Mr. Hicks. Thank you
9 for showing up on such short notice.

10 Can you just tell me your title, Mr. Hicks.

11 MR. HICKS: Yes. I'm the division chief over
12 external operations at the students and exchange visitor
13 program, SEVP.

14 THE COURT: Okay. And so do you work for ICE or
15 for the State Department?

16 MR. HICKS: I work for ICE. That's within ICE.

17 THE COURT: Okay. Thank you.

18 Ms. Graham-Oliver, you can have a seat. You don't
19 have to stand the whole time.

20 So, Mr. Hicks, I understand you have information
21 for me about the statement on the website. So on this
22 website it says that terminating a SEVIS record causes the
23 following: Student loses all on and/or off campus
24 employment authorization. How long has that statement been
25 on this government website?

1 MR. HICKS: It has been on there for quite a
2 while, Your Honor. I'm sorry, I didn't go back and see when
3 they put it on, but I believe it's been there for the last
4 probably ten years.

5 THE COURT: Okay. So your guess is it's been
6 there since like SEVIS got created, right?

7 MR. HICKS: I'm not sure it's been there that long
8 because SEVIS in State came along later. My time at SEVP
9 started in 2019. Before that I was part of the Office of
10 the Principal Legal Advisor, and one of the portfolios I
11 oversaw was SEVP. So I've only been familiar with SEVP
12 since 2012, and I've only been here since 2019.

13 THE COURT: 2019, okay.

14 So as long as you've been here, that statement has
15 been on the website.

16 MR. HICKS: That's what I believe to be true, yes.

17 THE COURT: Okay. Thank you.

18 And so government counsel has told me today that
19 that statement is incorrect. Is that also your belief?

20 MR. HICKS: Just a little context in order to
21 answer that appropriately.

22 THE COURT: Yes.

23 MR. HICKS: So the vast majority of terminations
24 are done by schools. For example, last year SEVP initiated
25 about six terminations. We don't terminate very often.

1 THE COURT: That's for 2024.

2 MR. HICKS: That was 2024, correct.

3 THE COURT: So six total across the country.

4 MR. HICKS: About -- I haven't had enough time to
5 check, but it's a handful, yes. It's like a dozen or six,
6 so that's correct.

7 THE COURT: Okay. And can I ask, what's the
8 nature of those terminations? What were the bases for
9 terminating those six or 12?

10 I'm not holding you to a number. I take your
11 point to be it was a small number.

12 MR. HICKS: We typically only take action when
13 there's some kind of an emergency. So in the last month an
14 example of this would be we got a call from a school or we
15 found out evidence that at a school a student was
16 threatening to kill a teacher; that he had guns; that he had
17 done things like this before. And in that instance we will
18 terminate and go and immediately arrest, as we did with this
19 student, and that person's in removal proceedings.

20 That's kind of -- that's a little bit over the
21 top, but that's when we take action. People will threaten
22 to be disruptive, threaten violence, and we usually step in
23 then.

24 THE COURT: Can I --

25 MR. HICKS: There are other --

1 THE COURT: Can I just ask one clarifying question
2 on that. Why wouldn't the school terminate in that
3 situation? Because I understand that the school does the
4 vast majority. So in an emergency situation like that, why
5 does it come to you instead of the school?

6 MR. HICKS: They may not have gotten the tip,
7 right? So sometimes information comes to us --

8 THE COURT: I see.

9 MR. HICKS: -- from a tip, and we will take action
10 quickly without going through the -- let's get in touch with
11 the school official and go that way.

12 THE COURT: Okay. That makes sense.

13 Okay. So you -- so the context is, like prior to
14 this most recent mass termination effort, you've only
15 terminated in a handful of cases like in emergency
16 situations.

17 MR. HICKS: Correct. That's when we terminate.

18 Now, the other thing that happens is we do call
19 the school if we have information that isn't sort of life-
20 threatening or violent. We'll say, "So-and-so has been
21 arrested under this suspicion of something, you know. Is
22 that something you want to take action, or are going to take
23 action on?" That might be an off-campus assault, or it
24 might be something else that might get into student conduct.

25 THE COURT: Right.

1 MR. HICKS: And so the school -- we leave that in
2 their hands most of the time, to take that action.

3 THE COURT: Yes. Okay.

4 MR. HICKS: And so that's why the website says
5 what it says. The website is meant to be external facing.

6 THE COURT: So --

7 MR. HICKS: And I know --

8 THE COURT: Go ahead. Finish your answer.

9 MR. HICKS: Go ahead, Your Honor.

10 THE COURT: No, you finish your answer.

11 MR. HICKS: So the numbers I have for this year
12 from January 20, 2025, to present, there have been about
13 36,000 terminations in SEVIS, and almost all of those have
14 been done by the schools.

15 Now, with this initiative, we did about 5,500
16 ourselves, which is obviously way more than we usually do,
17 and that was part of the initiative. But that's obviously
18 why we're here, because you're seeing the impact. And
19 obviously with the lawsuits, we're all seeing the impact.

20 THE COURT: So I'm trying to understand this
21 statement then. So you're saying in an emergency case like
22 the one you described, where you make a termination because
23 a student is violent and you have very credible reasons to
24 question the safety of others on campus, you make an
25 emergency termination. In that case the student would lose

1 all on and/or after campus employment.

2 But --

3 MR. HICKS: Correct, but also when the school --

4 THE COURT: Yes, go ahead.

5 MR. HICKS: Go ahead. I'm sorry.

6 So if -- this is a website that's external facing,
7 so the purpose is to kind of explain what the typical
8 situation is to the student.

9 The typical situation is the school has taken
10 action to terminate you, and therefore they have whatever
11 evidence they have that they -- you're no longer going to be
12 a student there, and that's what would trigger the loss of
13 employment and all these other things.

14 THE COURT: Right.

15 MR. HICKS: So that's --

16 THE COURT: Okay.

17 MR. HICKS: The website addresses that. It
18 doesn't really address the initiative that we're here about
19 today.

20 THE COURT: So a SEVIS termination does, in fact,
21 have an impact, and this website, you know, saying a student
22 loses all on and/or off campus employment is, in fact, true
23 when SEVIS is terminated either in an emergency situation
24 like you have done a handful of times last year, for
25 example, or when a school terminates.

1 Now, we are in some new era where the government
2 is itself terminating and has mass terminated thousands of
3 students, not in an emergency situation where you do an
4 analysis on a case-by-case basis and make a record that, in
5 fact, there's a reason to terminate a status, but you've ran
6 some program, identified students who have interacted with
7 law enforcement, and went ahead and just did mass
8 terminations of, by your count, 5,500 students. You
9 understand that it's still a termination. You're not doing
10 some different type of termination now. You're just doing
11 it differently, but it's still a SEVIS termination, right?

12 MR. HICKS: Yes, we have set their SEVIS record to
13 terminated, correct.

14 THE COURT: Okay. So I don't hear you to be
15 saying that this statement is incorrect, which government
16 counsel told me earlier, because, in fact, a SEVIS
17 termination does, in fact, result in the student losing all
18 on and/or off campus employment, which is why schools were
19 telling students you can no longer participate in, like, off
20 campus enrollment. You can't do your OPT because that is
21 the result of a termination. And the fact that the
22 government decided to change how it does terminations and,
23 in fact, terminate thousands of students without doing this
24 individualized assessment that up until this year you
25 started doing, like that doesn't change the effect of a

1 SEVIS termination.

2 MR. HICKS: I think -- I do have to provide the
3 context that, you know, the loss of employment and
4 employment authorization addresses when the school is taking
5 this action, that when the government in this initiative
6 terminated and I think the declarations that have been filed
7 with various courts that -- they weren't my declarations,
8 but I've seen it -- the SEVIS termination has been -- is in
9 an immigration status determination. It isn't a
10 determination that was made by an immigration judge. And so
11 there is some confusion about exactly what needs to be done
12 when the government is terminating your SEVIS status, if
13 that means it has an immediate impact or not, because what
14 the declarations have been saying is it is not a status
15 determination.

16 And if the school felt whatever the conduct was --
17 there was an individualized assessment here to the extent
18 that people -- as I understand it, that people went through
19 the NCIC database. And if there were hits in the database,
20 they said, okay, this is a person who has a hit of some
21 sort, a criminal hit or some other hit. And that was the
22 determination that was made in conjunction with the
23 Department of State about these revocations; that it then
24 came back to the SEVP, and there was a list, and we were
25 told to terminate the names on the list. And it happened

1 over the course of three weeks.

2 So I think the statement obviously merits a little
3 clarification, and I would, you know -- I'd be happy to
4 address those points. But I -- you know, it is accurate if
5 the school has taken action against you, and you're no
6 longer a student, then you have to stop working. That was
7 what was meant to be addressed here. It isn't -- go ahead.

8 THE COURT: I'm not sure, based on what I've heard
9 you say, that the statement needs a clarification. You
10 can't have a different SEVIS termination consequence if the
11 school takes action or if the government takes action. Like
12 it's just that what's happened in this Student Criminal
13 Alien Initiative is unprecedented, and it's not something
14 the government has ever done before, and because it wasn't
15 really thought through, as far as I can tell, the government
16 didn't really consider all the consequences of it, and it
17 resulted in mass chaos across the country and upending the
18 lives of students across this country, forcing students who
19 most of them don't have the means to hire lawyers to file
20 close to 100 lawsuits simply so they can go to school.

21 I had a plaintiff before me less than two weeks
22 ago who was mistakenly arrested by the police officer for
23 breaking a traffic law. When they went back and looked at
24 the video, they realized that he did not, in fact, break the
25 traffic law, so the Texas Department of Public Safety never

1 even charged him with a crime. And yet on that basis, and
2 on that basis alone, the United States government terminated
3 his SEVIS record. He lost his job. His wife is about to
4 have a baby in two months and fears a long list of
5 consequences. And that, I gather, was not the intended
6 effect of the SEVIS system, and that's the system that all
7 of you are standing up here defending to me today, and
8 repeatedly have defended to me in the past couple of weeks,
9 and you've defended over courts across this country. I find
10 it completely shocking.

11 But, Mr. Hicks, I thank you for coming on short
12 notice. That information was very helpful. I suspected
13 that the statement had been on the website for an incredibly
14 long time, and I thank you for your testimony.

15 I believe Mr. Hammer is here to -- is that
16 Mr. Hammer on the line?

17 MR. HUDAK: No, Your Honor; it's Brian Hudak from
18 the U.S. Attorney's Office.

19 THE COURT: Is Mr. Hammer showing up, Counsel?

20 MR. HUDAK: I have not received word from ICE
21 whether Mr. Hammer is showing up or another ICE
22 representative. ICE has not yet gotten back to me on that.
23 I am following up with them.

24 THE COURT: Mr. Hudak -- and I understand we have
25 a change in counsel. So you are aware -- I assume you

1 are -- I had Mr. Carilli before me on this case two weeks
2 ago. I asked him questions about this mass termination
3 program, which I now have a name for. He told me he did not
4 have the answers. He then showed up before me and told me
5 he was not instructed to answer the questions. He then
6 clarified that he was not instructed and did not have the
7 answers, and I was really clear that when I set this hearing
8 I wanted him to show up like well-prepared to answer my
9 questions or bring someone who could.

10 And then I had a change of counsel, and
11 Ms. Graham-Oliver showed up and said she could not answer
12 those questions.

13 And now I have been waiting for a witness to show
14 up. I heard that that witness would show up at 11:00, and
15 now we have no confirmation.

16 I understand you are handling a lot of cases right
17 now, but we're here in all these cases because the
18 government took action that's having a real impact on
19 people's lives. And I am taking the time to be here, and I
20 scheduled this hearing two weeks ago, and so I am quite
21 surprised that the government can't answer my questions and
22 can't produce someone who can.

23 MR. HUDAQ: Yes, Your Honor. I mean, what we did
24 in preparation for this hearing is we mined both the
25 transcripts for both this hearing and the TRO hearing in

1 this case and in the next case that you had scheduled for
2 11:30. We've compiled a list of the questions based upon
3 our mining of those transcripts as to what your questions
4 were --

5 THE COURT: Uh-huh.

6 MR. HUDAK: -- at those hearings, and we found
7 answers for those questions. Ms. Graham-Oliver and Mr.
8 Truong at 11:30 are prepared to answer the questions that
9 you had on the transcripts there.

10 THE COURT: Okay.

11 MR. HUDAK: There are additional questions --

12 THE COURT: Okay. Mr. Hudak, I'm just going to --
13 I did not ask additional questions, and I actually have here
14 my notes from that hearing, which are the questions I
15 started to ask Ms. Graham-Oliver, and the very first
16 question I asked Mr. Carilli was: Mr. Carilli, can you
17 start by telling me about the recent terminations in SEVIS
18 that appears that there's a recent mass termination by the
19 government? How did that mass termination effort come
20 about?

21 I asked Ms. Graham-Oliver. I said: Well, now, I
22 know the name of that based on the three pages of your
23 administrative record. And I said: Tell me about this
24 Student Criminal Alien Initiative. Tell me about that
25 program. Tell me about how it came about.

1 And she said she could not answer that question,
2 which is why I asked for someone from the agency to be here
3 to tell me about that program.

4 MR. HUDAK: So it's my understanding that we filed
5 notices of a supplement last night that included the *Patel*
6 transcript where Mr. Watson testified extensively about the
7 origins of the program and how it was implemented with the
8 Department of State, including linking it to the email
9 correspondence that should be in the administrative record
10 before the Court. That's how the program came about
11 because, as Mr. Hicks said, it's an initiative that was led
12 by -- that was directed by his in coordination with the
13 State Department, and that the email correspondence plays
14 out exactly how that transpired to get to the point in time
15 where ICE terminated approximately 5,500 SEVIS records.

16 THE COURT: So, Mr. Hudak, you're telling me you
17 filed a transcript that -- of another case. Did your
18 attorney who filed it read the transcript such that she can
19 answer my questions?

20 MR. HUDAK: I am fully confident that Ms. Graham-
21 Oliver, one of the deputy chiefs in our division, in the
22 civil division of the U.S. Attorney's Office, has read the
23 *Patel* transcript and is prepared to answer your questions.

24 THE COURT: Okay. So let's try this again because
25 she could not answer my first question and told me that

1 someone from the agency would have to answer those
2 questions. And if you're telling me I need to go read a
3 transcript and get the answers to my questions, and that
4 someone from the government can't answer those questions
5 themselves, I find that to be unacceptable.

6 MR. HUDAK: Well, I can certainly answer your
7 questions.

8 THE COURT: Okay. Let's do it then.

9 MR. HUDAK: Mr. Hicks is also here and raising his
10 hand and has an ability to answer questions as well.

11 THE COURT: Okay. I'm happy to hear from whoever
12 can answer those questions. Ms. Graham-Oliver told me
13 Mr. Hicks could answer those questions about the State
14 Department website, and Mr. Hammer would be able to answer
15 my questions about these mass terminations. If Mr. Hicks
16 can answer them, even better. And if you know the answers,
17 Mr. Hudak, you can answer them, too.

18 So why don't I ask them, and why don't I start
19 with Mr. Hicks since he's here from the agency. And if he
20 doesn't know any answers to some of these questions, we can
21 move on, and then I'll turn to you, Mr. Hudak, and see if
22 you can answer those question. And then we'll see where we
23 are, and maybe we don't need Mr. Hammer.

24 MR. HICKS: If I could just offer one quick
25 thought, Your Honor.

1 THE COURT: Go ahead, Mr. Hicks.

2 MR. HICKS: I wanted to mention that in the last
3 week we've turned all these people back to active in SEVIS.
4 So you may be aware of that; you may not be --

5 THE COURT: No, I am aware of that, and I -- I
6 mean, this plaintiff was turned back to active based on my
7 TRO, and I've got a filing saying that they would have been
8 turned back to active anyway, Mr. Hicks. It has had a huge
9 impact on these people's lives, and it's the result of 100
10 of them having to pay attorneys and come to court just so
11 they could go to school, and time by judges across this
12 country to sit and hear these cases, and it's the result of
13 TRO after TRO after TRO because the government terminated
14 thousands of people, and based on what I've seen, without
15 actually doing any real checks into whether these people
16 should have been terminated. So let me just go back to my
17 general questions about this.

18 So I have been calling it, before Mr. Carilli,
19 this mass termination effort because that's what it looked
20 like to me based on all the lawsuits getting filed. I have
21 three myself. So as I now understand, it's like the Student
22 Criminal Alien Initiative. So tell me how this came about.

23 Ms. Graham-Oliver said some staff attorney made up
24 that name -- not attorney, I take that back -- some staff at
25 ICE made up this name, Student Criminal Alien Initiative.

1 But tell me how it came about. What do you know about that?

2 MR. HICKS: Your Honor, I don't know anything
3 about where that started, how that came about.

4 THE COURT: Okay. Mr. Hudak, do you know anything
5 about how that program came about? Because that is the very
6 first question that I asked Mr. Carilli.

7 And I understand in preparation you guys sat down
8 and looked at the transcript to pull out my questions, but
9 that is the first question I asked him all three days that
10 he was before me two weeks ago.

11 MR. HUDAK: And it's my understanding, Your Honor,
12 that this was an initiative that ICE undertook at the
13 direction of the HSI executive director to understand what
14 population of noncitizens that were in SEVIS had
15 interactions with law enforcement through NCIC.

16 THE COURT: Okay. And so.

17 MR. HUDAK: And they compared the --

18 THE COURT: Go ahead.

19 MR. HUDAK: Then they compared the NCIC list with
20 the records in SEVIS and referred those matters to the
21 Department of State.

22 The State Department then did an effort to examine
23 those records, determined whether folks' visas should be
24 revoked, whether there was a request that SEVIS records
25 be terminated, and that proceeded along the lines that

1 Mr. Watson described on Pages 4 through -- 4 through 14 of
2 the Patel transcript.

3 THE COURT: So this match on the NCIC system is
4 checking only whether someone had an interaction with law
5 enforcement. It's checking that that person was arrested
6 and nothing more.

7 So in all of the cases I have had, none of these
8 law enforcement interactions actually resulted in criminal
9 convictions, so -- is that right?

10 So describe to me the criteria of this NCIC match
11 and what it is, in fact, flagging.

12 MR. HUDAQ: Sure. So it is -- as I understand
13 NCIC, and based upon the systems of records notices that the
14 FBI publishes from CJIS, which is the component of the FBI
15 that runs NCIC and other criminal -- other databases
16 regarding interactions with criminal authorities, it's that
17 NCIC has different ways that folks can end up in there. It
18 can be an arrest for a misdemeanor or a felony. It can be
19 someone that it on a warrant. It can be something involving
20 INTERPOL. There's a lot of different ways that someone can
21 find themselves to have an NCIC record and be in that
22 system.

23 So it's my understanding what the initiative that
24 ICE did was to compare those records against the SEVIS
25 records and develop where there were commonalities.

1 THE COURT: Okay. And am I right that if someone
2 was arrested, and those charges were either dismissed for
3 some reason or never even brought in the first place because
4 the person should not have been arrested, like that has no
5 impact on someone's F-1 status in this country? Because the
6 regulations, which I've spent a long time with, sort of set
7 out very clear paths via which the government can terminate
8 someone's nonimmigrant status or the student themselves
9 become in nonimmigrant status based on certain actions.

10 So am I right that an arrest on its own that may
11 have been by a mistake like I have seen does not actually
12 lead to any change in a student's nonimmigrant status?

13 MR. HUDA: I think the fact of the arrest I don't
14 think does. The underlying conduct could. And if I could
15 explain, Your Honor?

16 So the State Department, in its discretion in a
17 completely -- in a decision that is not reviewable in
18 district court under 8 USC 1201(i), has the discretion to
19 terminate a nonimmigrant, any nonimmigrant -- be it F-1, a
20 visitor, whomever -- in its discretion and have that
21 termination be with immediate effect.

22 If the State Department does so based upon conduct
23 that led to an arrest of an individual and does so with
24 immediate effect, not prudential effect -- there are
25 differences in the way that the State Department goes about

1 revoking visas of nonimmigrants who are in this country.
2 The State Department immediately revokes a visa under 8 USC
3 1227(a)(1)(B). That noncitizen is subject to immediate --
4 to be put immediately into removal proceedings, to be issued
5 a notice to appear before an immigration judge for
6 removability. That is the process.

7 So when you say the arrest in and of itself, I
8 think what is correct, to the best of my understanding, is
9 that the arrest, that event, is not the triggering event
10 necessarily. But obviously the State Department has
11 discretion under 1201(i) to take that into consideration in
12 conjunction with the events leading up to the arrest to make
13 a decision on whether or not to terminate someone's visa
14 with immediate effect. And that would have effects,
15 potentially, on someone's ability to remain in this country
16 lawfully and be put under removal proceedings.

17 Now, 1201(i) says, even though it's not reviewable
18 in district court, if it's the only basis for removability,
19 that that decision is subject to review in immigration
20 courts, so before an immigration judge or the board of
21 immigration appeals or ultimately through the petition for
22 review process to a U.S. Court of Appeals. So there's
23 judicial oversight of that process as well.

24 But I want to be very clear that there is still --
25 if someone gets picked up, for example, and is accused but

1 not yet convicted of a crime, and the State Department
2 believes that the facts underlying that, including that the
3 probable cause that led to the arrest is a sufficient basis
4 to immediately revoke a nonimmigrant's visa, that is a
5 potential way that they get put into removal proceedings and
6 can be removed from the country.

7 THE COURT: Okay. And so you send the list to the
8 State Department. So if the State Department decides to
9 revoke a visa for reasons that would not lead to a change in
10 their immigration status on its own, for example, the
11 provision saying if you're, you know, criminally convicted
12 of a crime of violence punishable by more than one year,
13 right, you're no longer in valid status.

14 But putting -- if it's not that, if it's an
15 arrest, the State Department then says, "I see you've been
16 arrested. I'm going to revoke your visa." Then is a visa
17 revocation a valid basis to terminate the SEVIS record in
18 the way things have been playing out? Like are you looking
19 to the visa revocation? Are you looking to the visa
20 revocation as the reason to terminate the SEVIS record, or
21 are you terminating the SEVIS record based on the arrest?

22 MR. HUDAK: So the way this played out, as I
23 understand it, is that the State Department came back and
24 there were certain folks that they -- and really, if I could
25 line it up with three buckets of kind of nonimmigrants and

1 their interactions with the State Department first.

2 So the State Department can revoke a visa with
3 immediate effect.

4 They can prudentially revoke a visa, and what that
5 means, the best as I understand it, is that the visa is
6 revoked when that noncitizen departs the country such that
7 they cannot return on that visa to seek admission at a port
8 of entry. If it's prudentially revoked, it just is -- it's
9 good to leave, but it's not good to ever come back, so they
10 would need to go to a consular official again to get a
11 different visa or get another visa to seek admission into
12 the country. So that's -- there's immediate revocation,
13 prudential revocation, and then visa expiration. And then
14 visa expiration, depending on the type, is not coincident to
15 your status, immigration status, nonimmigration status in
16 the United States.

17 The F-1 category, most students are admitted to
18 the United States by CVP for the duration of their studies,
19 but that visa, the thing that goes in the passport and has
20 an expiration date on it, that expires in a relatively short
21 period of time. Usually you have 90 or 120 days to travel
22 on your visa. But most students come here -- and that
23 period can differ. It will depend on the type of visa as
24 far as how long that visa is in effect for.

25 Oftentimes students will come here and stay here.

1 And their visa will expire by its normal course, but they're
2 still in status in the United States and attending school.

3 So those are the three buckets you have of the
4 folks that had SEVIS records terminated as I -- to the best
5 of my understanding. There were those that were immediately
6 revoked, those that were prudentially revoked, and those
7 that had expired visas, expired F-1 visas.

8 So it was not as -- to the best of my knowledge,
9 it was not key -- the SEVIS termination requests were not
10 key to visa revocation with immediate effect. It would --
11 the noncitizens fell into one of those three buckets; either
12 immediate revocation, prudential revocation, or the
13 expiration --

14 THE COURT: So which ones led to SEVIS
15 terminations? All three, or one or two of those three?

16 MR. HUDA: All three. So, I mean, it's my
17 understanding that the State Department had different lists
18 for each of those types and put a request to ICE to
19 terminate the SEVIS records in its discretion.

20 THE COURT: From all three.

21 MR. HUDA: Yes, basically -- they scrubbed the
22 list. They tried to -- as Mr. Watson testified in *Patel*,
23 there was a John Smith on the list. They tried to make sure
24 it was the right John Smith so they weren't misaligning the
25 records from NCIC and SEVIS. But there are folks in these

1 cases that have had visa terminations for both prudential
2 revocations and where their visa had expired.

3 THE COURT: Yes. So I'm not sure -- I understand
4 the three buckets, and it's helpful to understand how they
5 revoke visas, but given that in all cases it led to SEVIS
6 terminations, that's what I'm trying to understand how this
7 process worked, this Student Criminal Alien Initiative.

8 You ran the list against NCIC. It showed anyone
9 who had any interaction with law enforcement. You then sent
10 that to the State Department who has the discretion to
11 terminate people for whatever reason it wants. It
12 terminated visas in three different buckets. And in all
13 cases where it terminated visas, it revoked the visas, it
14 sent those lists back to ICE, and ICE then terminated those
15 students' visa status; is that right?

16 MR. HUDA: So, again, I want to be very -- no,
17 and I just want to make sure. So there were individuals
18 whose SEVIS -- whose visa had expired whose SEVIS records
19 were terminated. So it was not --

20 THE COURT: But it went -- can I just --

21 MR. HUDA: Yes.

22 THE COURT: So that's before it went to the State
23 Department for the State Department to tell you whose visa
24 had been revoked?

25 MR. HUDA: Correct. So, again, if I'm a -- let's

1 say I'm like a grad student, and I --

2 THE COURT: No, I understand. I just want to walk
3 through and understand how this works. Stop me when you
4 think I'm wrong.

5 ICE ran these lists against the NCIC. It
6 generated a long list. How long was that list?

7 MR. HUDAK: Mr. Watson, who just joined us,
8 probably has the number handy. I believe it is -- I think
9 it was 6,400 names. Is that correct, Mr. Watson?

10 THE COURT: Why don't we turn to Mr. Watson since
11 he's here. Thank you, Mr. Hudak.

12 Mr. Watson, thank you for coming.

13 MR. WATSON: Good morning, Your Honor.

14 THE COURT: Thank you, and thank you for joining
15 on short notice. I'm not going to swear you in. I'm just
16 looking for some answers to my questions that I am hoping
17 you can provide.

18 So I am trying to understand the Student Criminal
19 Alien Initiative, and I will start back at the beginning.
20 Tell me what you know about how this mass termination
21 effort, which is called in this email the Student Criminal
22 Alien Initiative, how did it come about?

23 MR. WATSON: So, Your Honor, this initiative came
24 about following an examination of the executive order
25 regarding anti-semitism activities in the United States.

1 THE COURT: Oh.

2 MR. WATSON: So we went from noncitizen aliens
3 that were within the scope of the executive order on anti-
4 semitism, and we shifted from that focus then to F-1 and M-1
5 students that were currently studying in the United States.
6 And the question was with this population of students how
7 many of them have derogatory information known.

8 So the requirement was for us to run that
9 population of students through NCIC, and we did so. So the
10 rough order of magnitude for that population was just under
11 1.3 million F and M visa holders. And from that population
12 run, Your Honor, we came up with about 16,000 records that
13 showed a positive result in NCIC.

14 And from that 16,000, my division was responsible
15 then for checking the data against the actual records. And
16 from those checks of the 16,000, the population went down to
17 about 13,900. And then from that population, we then
18 brought it down to 6,400 individuals that had a positive
19 NCIC record or an encounter with law enforcement officers.

20 From that 6,000 --

21 THE COURT: Okay.

22 MR. WATSON: Yes, ma'am, I'm sorry.

23 THE COURT: Actually, finish with the numbers, and
24 then I'll go to my questions.

25 MR. WATSON: Yes, ma'am. So with that 6,400,

1 ma'am, we generated lists, and the lists were generated
2 based on what I'll call productivity in the day.

3 So we didn't do one list for the entire 6,400. As
4 our contract staff went through the list and compared the
5 records against the SEVIS records and the identities, when
6 we had a confirmed match, we then categorized that
7 information on spreadsheets, and those spreadsheets were
8 provided to the Department of State Bureau of Consular
9 Affairs for action as deemed appropriate.

10 So --

11 THE COURT: Okay. Let's stop there, then, with
12 where you send stuff to the State Department. Let me
13 understand your process.

14 So 1.3 million visa holders. You matched that
15 against this NCIC list, and that came -- you came up with
16 16,000 records. And then what kind of checks are your staff
17 doing with that 16,000? Like how did you get the 16,000
18 down to 13,900, and then what additional checks are you
19 doing to get it down to 6,400?

20 MR. WATSON: So the checks that were done on the
21 16,000 were to match the names and any PII, personally
22 identifiable information. So there were instances where
23 there were not name matches due to misspellings in names or
24 due to misspellings in the NCIC records. So our contract
25 staff is responsible for matching the NCIC record and the

1 person lists therein against the SEVIS record and the person
2 therein.

3 So if we had a positive match on a name and a date
4 of birth, then the second part to it was to see what the
5 NCIC record had in terms of an arrest encounter. So if we
6 could see that there was an arrest based on an encounter
7 with the law enforcement officer whereby this student was
8 charged, the question was then what was the charge?

9 So we would check the NCIC record to see what was
10 entered by the arresting agency. So it could be a charge
11 like shoplifting. It could be a DUI. Whatever charge we
12 saw applicable to that student we then put in a spreadsheet.

13 We also looked at whether or not there was a
14 disposition on the charge, whether or not it was a
15 conviction, whether or not it was unknown, whether or not it
16 was either dismissed or nolle prosse'd. All of that
17 information, when it was available, was categorized on the
18 spreadsheet so that anyone seeing the spreadsheet would know
19 we have a match, this is the charge and, if the disposition
20 was known, what the disposition was.

21 My staff even went one step further internally to
22 color-code the individuals to show if there was a
23 disposition versus one that required additional
24 investigation versus one that did not have a disposition,
25 meaning dismissed or nolle prosse'd that was actionable.

1 THE COURT: So why, if someone is arrested like
2 one of my plaintiffs -- I'm not making this up. If someone
3 was arrested for violating a traffic law, the officer went
4 back, looked at the video, found out that that person, in
5 fact, did not violate the traffic law, it was a mistake so
6 thus never brought charges, so you're going to look that
7 person up. It says arrested, no charges ever brought, and
8 that person stays on your list for potential termination
9 even though that person was mistakenly arrested or at least
10 it's clear to you from looking at NCIC that that person
11 never had had charges brought against them?

12 MR. WATSON: So, ma'am, that wasn't a mass list of
13 terminations. It was a list of referrals for State
14 Department consideration. That's what the list was for, and
15 that's what we provided to the Department of State.

16 THE COURT: Got it. So you guys generated -- let
17 me ask my question again.

18 So you guys generated a list not for termination,
19 just to identify people who had any law enforcement
20 interactions, and those law enforcement interactions would
21 not actually lead to a termination of someone's F-1 status.
22 But you generate that list, and then you refer it to the
23 State Department because they've got a lot of discretion to
24 revoke visas, and then they decide what they're going to do.
25 Visas get revoked, and it comes back to you, and then you

1 terminate the SEVIS record, thus essentially like
2 terminating these people's F-1 status.

3 That was this Student Criminal Alien Initiative in
4 furtherance of the President's -- okay.

5 MR. WATSON: The list that we generated -- I'm
6 sorry, Your Honor. Forgive me. I didn't mean to overspeak.

7 THE COURT: No, go ahead. You can finish.

8 MR. WATSON: The list that we generated for State
9 Department consideration were those students that had a
10 record of a positive interaction with law enforcement. It
11 was referred to the Department of State for their
12 consideration as it relates to their visa.

13 The results that were returned back to us by the
14 Department of State as to whether or not they either revoked
15 the visa or the visa had expired, okay, was then given to
16 us. And based on the existence of derogatory information
17 and the request from the Department of State, the records
18 were terminated.

19 THE COURT: Okay. I now have a very clear
20 understanding of how this Student Criminal Alien Initiative
21 happened, and I thank you for answering those questions,
22 Mr. Watson.

23 Let me ask you a question I've been asking for a
24 long time. The government's position, which the plaintiffs
25 clearly don't find credible, is that a SEVIS termination has

1 no impact whatsoever on a student's F-1 status here. What
2 is the purpose of a SEVIS termination if it has no impact
3 whatsoever on students' F-1 status?

4 MR. WATSON: It serves as a red flag and could
5 lead to further investigation by those having access to
6 SEVIS, and that includes academic institutions.

7 THE COURT: And based on what you've seen,
8 academic institutions have, in fact, taken action based on
9 SEVIS terminations, kicking students out of classes,
10 terminating their OPT training programs, telling them they
11 can't -- they can no longer go to work, correct?

12 MR. WATSON: Ma'am, I don't have that level of
13 granularity as it relates to those outcomes.

14 THE COURT: Okay. Thank you.

15 Let me ask you. So everyone you got back from the
16 State Department having their visa revoked, you did the
17 SEVIS termination based solely on the revocation of the visa
18 or based on, as you call it, derogatory information in that
19 person's file, or both?

20 MR. WATSON: Both. But if the State Department
21 also requested the termination, we executed on that.

22 THE COURT: So of the 6,000 people or so that went
23 over to the State Department, how many requests for SEVIS
24 terminations did you get back?

25 MR. WATSON: I can't give you an exact number on

1 the request of terminations, but I can tell you that the
2 revocations were in excess of 3,200.

3 THE COURT: Okay. And did you only terminate
4 records where the State Department requested that you do so,
5 or did you also terminate records based on the derogatory
6 information you found in the NCIC system?

7 MR. WATSON: Your Honor, we terminated records
8 that had visas revoked or at the recommendation of the
9 Department of State. And that rough order of magnitude was
10 over 5,500 records that were terminated prior to the
11 issuance of TROs.

12 THE COURT: So you did not terminate any records
13 based on your own assessment. All of the terminations were
14 done based on either a request or a recommendation from the
15 Department of State.

16 MR. WATSON: I know that the records that were
17 terminated were done under those two parameters. I cannot
18 speak to anything outside of that, ma'am.

19 THE COURT: Okay. You are not aware of any
20 terminations that occurred in cases other than where the
21 State Department either revoked a visa or recommended
22 termination.

23 MR. WATSON: That is correct, Your Honor. I'm not
24 aware of anything beyond that.

25 THE COURT: Okay. Thank you, Mr. Watson. I

1 appreciate you being here today.

2 MR. WATSON: You're welcome, Your Honor.

3 THE COURT: Okay. Counsel, since we are well
4 behind, we are going to adjourn in this case. I am going to
5 ask my courtroom deputy to call the next case on the
6 calendar. I will enter an order in this case later this
7 afternoon.

8 MS. GRAHAM-OLIVER: Thank you, Your Honor.

9 MR. BANIAS: Thank you, Your Honor.

10 MR. HUDAK: Your Honor, one question, if I may?

11 THE COURT: Who is speaking?

12 MR. HUDAK: This is Brian Hudak from the U.S.
13 Attorney's Office.

14 THE COURT: Yes, Mr. Hudak.

15 MR. HUDAK: Do you require Mr. Hicks and
16 Mr. Watson to stay on the line and be available for the next
17 hearing?

18 THE COURT: No. I am going to assume that all of
19 their answers would be the same in this hearing, so I don't
20 need them to stay. Thank you for checking.

21 MR. HUDAK: Great. Thank you, Your Honor.

22 THE COURT: And thank you, Mr. Hicks, as well for
23 being here.

24 (Whereupon the hearing was.

25 adjourned at 11:58 a.m.)

CERTIFICATE OF OFFICIAL COURT REPORTER

I, LISA A. MOREIRA, RDR, CRR, do hereby certify that the above and foregoing constitutes a true and accurate transcript of my stenographic notes and is a full, true and complete transcript of the proceedings to the best of my ability.

Dated this 5th day of May, 2025.

/s/Lisa A. Moreira, RDR, CRR
Official Court Reporter
United States Courthouse
Room 6718
333 Constitution Avenue, NW
Washington, DC 20001

1 **CERTIFICATE OF OFFICIAL COURT REPORTER**

2 I, LISA A. MOREIRA, RDR, CRR, do hereby
3 certify that the above and foregoing constitutes a true and
4 accurate transcript of my stenographic notes and is a full,
true and complete transcript of the proceedings to the best
of my ability.

5 Dated this ^ day of ^ , 2025.

6
7 /s/Lisa A. Moreira, RDR, CRR
8 Official Court Reporter
9 United States Courthouse
10 Room 6718
11 333 Constitution Avenue, NW
12 Washington, DC 20001

/	3			
/s/Lisa [2] - 70:10, 71:7	3,200 [1] - 68:2 333 [3] - 1:24, 70:12, 71:9 352-4272 [1] - 1:13 354-3187 [1] - 1:25 36,000 [1] - 42:13 3rd [5] - 7:1, 7:9, 27:1, 27:5	access [1] - 67:5 according [5] - 6:23, 13:4, 22:12, 27:6, 28:16 accurate [4] - 32:9, 46:4, 70:5, 71:3 accused [1] - 56:25 acknowledge [1] - 11:1 acknowledging [1] - 26:6 Act [1] - 22:15 action [15] - 19:2, 40:12, 40:21, 41:9, 41:22, 41:23, 42:2, 43:10, 45:5, 46:5, 46:11, 48:18, 63:9, 67:8	15:16, 17:10, 46:22, 48:2, 48:20, 53:10 agree [2] - 10:20, 32:13 ahead [12] - 28:2, 33:22, 34:10, 42:8, 42:9, 43:4, 43:5, 44:7, 46:7, 52:1, 53:18, 66:7 Alien [15] - 3:3, 3:6, 5:7, 10:15, 30:21, 37:4, 46:13, 49:24, 52:22, 52:25, 60:7, 61:19, 61:22, 66:3, 66:20 aliens [1] - 62:2 allows [1] - 29:23 almost [1] - 42:13 alone [1] - 47:2 amend [2] - 31:7 analysis [1] - 44:4 answer [53] - 3:16, 3:17, 4:1, 4:2, 4:15, 4:21, 5:6, 5:8, 5:10, 8:22, 9:2, 9:3, 9:5, 9:9, 9:13, 9:14, 9:19, 10:1, 10:6, 10:7, 10:8, 10:13, 10:18, 10:19, 11:15, 11:17, 16:2, 18:22, 20:8, 21:2, 37:25, 39:21, 42:8, 42:10, 48:5, 48:8, 48:11, 48:21, 49:8, 50:1, 50:19, 50:23, 50:25, 51:1, 51:4, 51:6, 51:10, 51:12, 51:13, 51:14, 51:16, 51:17, 51:22 answering [3] - 25:19, 35:22, 66:21 answers [10] - 4:5, 30:19, 48:4, 48:7, 49:7, 51:3, 51:16, 51:20, 61:16, 69:19 anti [2] - 61:25, 62:3 anti-semitism [1] - 61:25 anyway [2] - 13:8, 52:8 apologies [1] - 37:20 appeals [1] - 56:21 Appeals [1] - 56:22 appear [2] - 5:3, 56:5 APPEARANCES [1] - 1:11 appeared [1] - 9:4 applicable [1] - 64:12 applies [1] - 27:24 appreciate [1] - 69:1 appropriate [1] - 63:9	appropriately [1] - 39:21 April [17] - 6:5, 6:8, 6:9, 6:16, 6:25, 7:8, 7:9, 7:10, 7:18, 7:22, 13:14, 13:18, 22:7, 22:14, 27:1, 27:2 arbitrary [1] - 29:15 arguing [1] - 26:19 argument [4] - 29:14, 29:16, 29:18, 29:20 arrest [21] - 7:22, 9:16, 13:10, 13:13, 13:18, 31:2, 32:12, 33:8, 40:18, 54:18, 55:10, 55:13, 55:23, 56:7, 56:9, 56:12, 57:3, 57:15, 57:21, 64:5, 64:6 arrested [25] - 8:1, 8:6, 8:15, 9:10, 9:24, 12:14, 12:21, 13:5, 14:12, 23:5, 23:10, 24:1, 25:12, 26:2, 27:8, 41:21, 46:22, 54:5, 55:2, 55:4, 57:16, 65:1, 65:3, 65:7, 65:9 arresting [1] - 64:10 aside [1] - 34:24 assault [1] - 41:23 assessment [3] - 44:24, 45:17, 68:13 assume [11] - 3:23, 5:18, 9:6, 14:17, 14:21, 32:4, 32:10, 33:17, 35:15, 47:25, 69:18 assuming [2] - 31:13, 32:9 assurance [2] - 28:18, 28:21 Atlanta [1] - 32:17 attempt [1] - 30:1 attending [1] - 59:2 attorney [4] - 31:22, 50:18, 52:23, 52:24 Attorney's [3] - 47:18, 50:22, 69:13 ATTORNEY'S [1] - 1:19 attorneys [1] - 52:10 August [1] - 7:23 authorities [1] - 54:16 authority [4] - 14:7, 19:4, 29:3, 33:24 authorization [4] - 18:16, 20:3, 38:24, 45:4 automatic [1] - 18:11
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